

## Office of the Secretary of Defense

## § 117.55

*Proscribed information.* TOP SECRET (TS) information, COMSEC information excluding controlled cryptographic items when unkeyed and utilized with unclassified keys, restricted data (RD), special access program (SAP) information, or sensitive compartmented information (SCI).

*Restricted Data (RD).* As defined in DoD 5220.22-M.

*Sensitive compartmented information (SCI).* As defined in Joint Publication 1-02.

*Security assurance.* A written confirmation, requested by and exchanged between governments, that contains the following elements: Verification of the personnel security clearance (PCL) level of the sponsoring foreign government's citizens or nationals; a statement by a responsible official of the sponsoring foreign government that the recipient of the information is approved by the sponsoring foreign government for access to information of the security classification involved on behalf of the sponsoring government; and an obligation that the sponsoring foreign government will ensure compliance with any security agreement or other use, transfer and security requirements specified by the components. The security assurance usually will be in a request for visit authorization or with courier orders or a transportation plan; but is not related to the PCL security assurance.

*Special Access Program (SAP).* As defined in E.O. 13526.

*Subcontract.* As defined in DoD 5220.22-M.

### § 117.54 Policy.

It is DoD policy that DoD FOCI procedures will be used to protect against foreign interests:

(a) Gaining unauthorized access to classified, export-controlled, or all communications security (COMSEC) (classified or unclassified) information in accordance with E.O. 12829 and DoD Instruction 8523.01, "Communications Security" (available at <http://www.dtic.mil/whs/directives/corres/pdf/852301p.pdf>). DoD FOCI procedures for access to unclassified COMSEC are set forth in National Security Agency Central Security Service (NSA/CSS) Policy Manual 3-16, "Control of Communica-

tions Security Material" (available to authorized users of SIPRNET at [www.iad.nsa.smil.mil/resources/library/nsa\\_office\\_of\\_policy\\_section/pdf/NSA\\_CSS\\_MAN-3-16\\_080505.pdf](http://www.iad.nsa.smil.mil/resources/library/nsa_office_of_policy_section/pdf/NSA_CSS_MAN-3-16_080505.pdf)).

(b) Adversely affecting the performance of classified contracts, in accordance with E.O. 12829.

(c) Undermining U.S. security and export controls, in accordance with E.O. 12829.

### § 117.55 Responsibilities.

(a) The Under Secretary of Defense for Intelligence (USD(I)) will, in accordance with DoD Directive 5143.01, "Under Secretary of Defense for Intelligence (USD(I))" (available at <http://www.dtic.mil/whs/directives/corres/pdf/514301p.pdf>) and DoD Instruction 5220.22, "National Industrial Security Program" (see <http://www.dtic.mil/whs/directives/corres/pdf/522022p.pdf>):

(1) Oversee policy and management of the NISP, to include FOCI matters.

(2) Direct, administer, and oversee the FOCI provisions of the NISP to ensure that the program is efficient and consistently implemented.

(3) Provide additional guidance regarding FOCI matters by memorandum as needed.

(4) Coordinate with the Under Secretary of Defense for Policy (USD(P)) and the Under Secretary of Defense for Acquisition, Technology and Logistics (USD(AT&L)) on matters under their cognizance that affect the NISP consistent with paragraphs (c) and (d) of this section.

(b) The Director, Defense Security Service (DSS), in addition to the responsibilities in paragraph (d) of this section, under the authority, direction, and control of the USD(I) will in accordance with DoD Instruction 5220.22, "National Industrial Security Program" (available at <http://www.dtic.mil/whs/directives/corres/pdf/522022p.pdf>).

(1) Make FOCI determinations on a case-by-case basis for U.S. contractors or companies under consideration for an FCL under the NISP.

(2) Collect information necessary to examine the source, nature, and extent of a company's ownership, control, or influence by foreign interests.

(3) Determine, on behalf of the GCAs, whether a U.S. company is under FOCI